

PUBLIC UTILITIES COMMISSION

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July 24, 2009

Ms. Linda Resseguie, Project Manager, BLM
Solar Energy Development Programmatic EIS Scoping
Argonne National Laboratory EVS/900
9700 S Cass Ave.
Argonne, IL. 60439

Re: California Public Utilities Commission (CPUC) Comments on the Notice of Availability of Solar Energy Study Area Maps and Additional Public Scoping for the Programmatic Environmental Impact Statement (PEIS) to Develop and Implement Agency Specific Programs for Solar Energy Development; BLM Approval for Processing Existing and Future Solar Applications and Related Notice of Proposed Withdrawal and Opportunity for Public Meeting: Arizona, California, Colorado, Nevada, New Mexico, and Utah

Dear Ms. Resseguie:

Thank you for the opportunity to comment on the second Solar PEIS scoping notice. The notice announced the 24 Solar Energy Study Areas to be analyzed in the Solar PEIS for the six western states, of which four are included in California. As you are aware, we provided scoping comments on the May 29, 2008 notice and are now presently a cooperating agency on the Solar PEIS as well as a representative on the California Interagency Working Group for the Solar PEIS since 2008. In addition, the CPUC has been an active member of the Renewable Energy Transmission Initiative (RETI) process for over 2 years.

The CPUC is very supportive of the Solar PEIS and looks forward to a robust analysis. Commissioner Chong's May 11, 2009 testimony before the Subcommittee on Energy and Mineral Resources indicated that California has set one of the most ambitious greenhouse gas and renewables goals in the country. California investor-owned utilities are already mandated to provide 20% of their electricity from renewable energy sources by 2010. There is a goal of 33% by 2020 as part of a strategy for achieving California's goal of reducing statewide greenhouse gas emissions to 1990 levels by the year 2020 as part of the State's 2006 Global Warming Solutions Act.

With that background, we would like to provide the following additional specific scoping comments for your consideration in preparing the Solar PEIS:

Proposed Action

In the May 2008 Scoping Notice, the proposed action indicated that agencies would develop and implement agency-specific programs that would facilitate environmentally-responsible utility-scale

solar energy development. This would be done by establishing environmental policies and mitigation strategies related to solar energy development in the six western states with the most prospective solar energy resources suitable for development over the next 20 years. Also, BLM would determine if additional transmission corridors on BLM lands would be necessary to facilitate solar development. Based on the June 2009 notice identifying the Solar Energy Study Areas, it is not clear as to whether the proposed action is as originally described in 2008 or whether it has changed or will be revised based on this second notice. The CPUC would appreciate clarification on whether the Study Areas will be the “proposed action” or the existing solar applications plus the Study Areas.

Project Description – Criteria for Solar Study Area Identification

There are four Solar Energy Study Areas identified in California. The PEIS should clearly define the criteria used in selecting these particular areas and not others, particularly where there are existing solar applications. Consideration should be given in the PEIS to whether these areas identified are the most appropriate areas to consider for solar zones or whether there others that should be identified in the PEIS.

RETI Competitive Renewable Energy Zone (CREZ) Locations as related to Solar Energy Study Areas

The May 2008 notice indicated that the PEIS will consider ongoing transmission planning efforts including the RETI process. It is not clear how some CREZ locations were considered for Solar Energy Study Areas and why some were not considered in the June 2009 notice. CREZ areas where there are also solar applications, including Baker, Mt. Pass, and Lucerne Valley, were not included in the Solar Study Areas. In our previous July 15, 2008 scoping letter, we had requested that the results of RETI be considered in the Solar PEIS. We suggest that all of the RETI CREZ areas be studied, or in the alternative, the rationale or criteria for eliminating certain RETI CREZ areas from consideration be explained in the Solar PEIS.

Clarification on Maps issued with June 30, 2009 Notice

The Notice issued maps prepared by Argonne that show the Solar Energy Study Areas. The maps and their legends also show light blue areas as “BLM lands being analyzed for solar development in the PEIS as of 6/5/09.” The PEIS should clarify the meaning of these light blue areas.

Categories of Lands Excluded from Solar Consideration

The original 2008 notice listed excluded lands as any in the National Landscape Conservation System, Areas of Critical Environmental Concern (ACECs) or special management areas. The 2009 notice provides additional/different list of lands not included in the 2008 notice including: threatened and endangered species designated critical habitat; backcountry byways; areas of known tribal concern; areas of known high cultural site density; areas designated for right of way avoidance or exclusion in BLM land use plans such as ACECs; areas of important visual resources; special recreation management areas; areas to maintain wilderness characteristics; wildlife corridors; and areas where BLM has a commitment to take certain actions with respect to sensitive species habitat. We suggest that the PEIS should clarify the areas to be excluded from solar consideration based on the two notices. This is a factor for suitability for designating Solar Energy Study Areas.

Alternatives to Proposed Action

NEPA regulations (Section 1502.14) require agencies to rigorously explore and objectively evaluate all reasonable alternatives. In addition to the No Action Alternative, the 2008 notice included two alternatives: the Facilitated Development and Limited Development Alternatives. The Facilitated Development Alternative would create a reasonably foreseeable development scenario to define the potential for future utility scale solar energy development activities over a 20 year study period. Further, it would identify suitable lands, lands with restrictive stipulations, and lands not available for solar. The Limited Development alternative would evaluate the impacts of previously proposed solar energy development projects which have complete plans of development and are awaiting approval.

The second 2009 June notice does not clarify or mention alternatives to the proposed action. There are now proposed Solar Energy Study Areas with overlapping existing applications and there are existing applications outside these areas.

We suggest that a reasonable range of alternatives to the proposed action need to be clearly identified in the PEIS. Currently, it is not clear whether the existing applications and Solar Study Areas constitute a Facilitated Development or a Maximum Development Alternative. We also suggest considering an alternative that consists entirely of existing applications.

Consideration of Project level NEPA and Programmatic Level Analysis

The June 2009 notice indicates that portions of funding from the American Recovery Reinvestment Act (ARRA) are being used to enhance the Solar PEIS by enabling in-depth environmental analysis of 24 specific tracts of land for the purpose of determining whether such areas should be designated as Solar Energy Zones (SEZs).⁵ It is not clear from this statement whether there is an intention, by the use of the term “in-depth,” to prepare a NEPA specific document or a programmatic document. A project-specific level would possibly allow an environmental assessment (EA) or a Categorical Exclusion for future projects, whereas a program level would require tiering to a project-specific NEPA document for future applications. Also, the four Solar Energy Study Areas in California overlap with the boundaries of existing solar applications. Without clarification, the result might be that BLM could be preparing a programmatic document at the same time that project applicants could be preparing project specific NEPA analysis. We seek clarification on how BLM will coordinate the project-specific analysis with the PEIS level of analysis in these overlap areas. Certainly, project level analysis could allow quicker permit processing by BLM for proposed projects.

Solar Energy Zone Characteristics

Since the Solar Energy Study Areas are being considered for Solar Energy Zones, we suggest discussion in the PEIS of how these zones will be used for solar development and the quantity of megawatts to be permitted or actually expected from each study area. This question is crucial if the solar PEIS is to result in a more rational, environmentally-sensitive build-out of utility-scale solar generation and critical transmission lines. In the case of California's Study Areas, the PEIS should, in consultation with the CPUC, the California Energy Commission, publicly-owned utilities, and other stakeholders, consider the total amount of solar generation that California may require to meet its 2020 renewable energy targets and the appropriate contribution of solar generation on federal lands to meet those targets. If such considerations are not taken into account, the value of the PEIS could be undermined by a misalignment of generation and transmission development, inefficient use of public lands, and/or inaccurate analysis of cumulative impacts.

Consideration of Cultural Information for Solar Energy Study Areas

The May 2008 notice indicated that BLM would coordinate with tribal governments and provide strategies for the protection of recognized traditional uses in the PEIS and plan amendment process. We would urge the BLM to initiate tribal consultation on the Solar Study Areas as soon as possible to identify any cultural conflicts. A July 7, 2009 comment letter was received at the California Energy Commission on the RETI Phase 2A Draft Report from the Native American Land Conservancy (NALC) regarding the Iron Mountain Solar Energy Study Area which is also a RETI Competitive Renewable Energy Zone (CREZ 37). NALC indicates that the *“Iron Mountain Competitive Renewable Energy Zone would have a significant impact on the OWMP (Old Woman Mountain Preserve) that could not be mitigated especially in terms of cultural resources in and around the Preserve.... Our preliminary suggestion is that the CEC only concentrate on already disturbed areas for solar projects. No projects should be considered if they are in proximity to an area of critical biological and cultural resources.”*

Consideration of the Proposed Mojave Desert National Monument

The RETI Draft Phase 2A Report released in June 2009 indicates that several of the CREZs could be impacted by the proposed Mojave Desert National Monument that is being supported by Senator Feinstein. We suggest that the Solar PEIS address the proposed Monument in terms of how it may impact the size and/or location of at least two Solar Energy Study Areas – Pisgah and Iron Mountain.

Notice of Proposed Withdrawal – Differences in Comment Periods with Solar Study Area Notice and the Opportunity for Public Meetings

The June 30, 2009 notice also included a notice of proposed withdrawal and opportunity for public meetings in Arizona, California, Colorado, Nevada, New Mexico, and Utah, for 676,048 acres of public lands from settlement, sale, location, or entry under the general land laws, including the mining laws, on behalf of BLM to protect and preserve solar energy study areas for future solar energy development. The Notice requires that comments and requests for public meetings be received by September 28, 2009.

Since this withdrawal of lands is directly related to the related notice on Solar Energy Study Areas, it is not clear why the notice on study areas requires comments by July 30th and this notice requires comments by September 28th. Since the activities of these notices are directly related to each other, we would suggest that the scoping periods be the same, i.e. close on September 28th. It would seem that the PEIS would be better informed if comments were received in the same time period from both interrelated notices. Also, it is not clear why there is an opportunity for public meetings on the withdrawal and not for the Solar Energy Study Areas. We would like to recommend that this is an opportunity to have a combined set of public meetings for both noticed actions.

Consider Comments on the RETI Phase 2A Draft Report

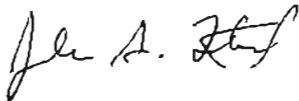
Recently, there were numerous comments submitted on the RETI Phase 2A Draft Report which are in some cases applicable to the Solar Energy Study Areas, including the cultural comment letter noted above in this letter. We recommend that BLM and their consultant review these comments, since the Solar Study Areas and some of the RETI CREZs are in the same locations.

Cumulative Considerations in the Solar PEIS

NEPA regulations (Section 1508.25(a) (2)) require consideration of cumulative actions, which when viewed with other proposed actions, have cumulatively significant impacts and should therefore be discussed in the same impact statement. Cumulative impact is defined by NEPA regulation Section 1508.7, which indicates the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Because of these rules, we suggest that the Solar PEIS should consider the cumulative impacts of the Solar Study Areas with the solar applications, along with geothermal and wind development that is underway, as well as the potential identified in the Wind PEIS and the Geothermal PEIS and any other proposed leasing activities.

Thank you for the opportunity to submit these comments. We look forward to continuing to work with BLM on the Solar PEIS document preparation as a cooperating agency and as a member of the interagency Working Group. If you have any questions, please call Billie Blanchard, our interagency group representative, at 415-703-2068 or email at bcb@cpuc.ca.gov.

Sincerely,



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Director, Energy Division

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